

AN ACT concerning children.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 2. The Children and Family Services Act is amended by changing Section 5 as follows:

(20 ILCS 505/5) (from Ch. 23, par. 5005)

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years. The term also includes persons under age 19 who:

(A) were committed to the Department pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, as amended, prior to the age of 18 and who continue under the jurisdiction of the court; or

(B) were accepted for care, service and training by the Department prior to the age of 18 and whose best interest in the discretion of the Department would be served by continuing that care, service and training because of severe emotional disturbances, physical

disability, social adjustment or any combination thereof, or because of the need to complete an educational or vocational training program.

(2) "Homeless youth" means persons found within the State who are under the age of 19, are not in a safe and stable living situation and cannot be reunited with their families.

(3) "Child welfare services" means public social services which are directed toward the accomplishment of the following purposes:

(A) protecting and promoting the health, safety and welfare of children, including homeless, dependent or neglected children;

(B) remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation or delinquency of children;

(C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

(D) restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at

home without endangering the child's health and safety;

(E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

(F) assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of this Section so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

(G) (blank);

(H) (blank); and

(I) placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

- (i) who are in a foster home, or
- (ii) who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code, or
- (iii) who are female children who are pregnant, pregnant and parenting or parenting, or
- (iv) who are siblings, in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age.

(b) Nothing in this Section shall be construed to authorize the expenditure of public funds for the purpose of performing abortions.

(c) The Department shall establish and maintain tax-supported child welfare services and extend and seek to improve voluntary services throughout the State, to the end that services and care shall be available on an equal basis throughout the State to children requiring such services.

(d) The Director may authorize advance disbursements for any new program initiative to any agency contracting with the Department. As a prerequisite for an advance disbursement, the contractor must post a surety bond in the amount of the advance disbursement and have a purchase of service contract approved by the Department. The Department may pay up to 2 months operational expenses in advance. The amount of the advance disbursement shall be prorated over the life of the contract or

the remaining months of the fiscal year, whichever is less, and the installment amount shall then be deducted from future bills. Advance disbursement authorizations for new initiatives shall not be made to any agency after that agency has operated during 2 consecutive fiscal years. The requirements of this Section concerning advance disbursements shall not apply with respect to the following: payments to local public agencies for child day care services as authorized by Section 5a of this Act; and youth service programs receiving grant funds under Section 17a-4.

(e) (Blank).

(f) (Blank).

(g) The Department shall establish rules and regulations concerning its operation of programs designed to meet the goals of child safety and protection, family preservation, family reunification, and adoption, including but not limited to:

(1) adoption;

(2) foster care;

(3) family counseling;

(4) protective services;

(5) (blank);

(6) homemaker service;

(7) return of runaway children;

(8) (blank);

(9) placement under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

Court Act of 1987 in accordance with the federal Adoption Assistance and Child Welfare Act of 1980; and

(10) interstate services.

Rules and regulations established by the Department shall include provisions for training Department staff and the staff of Department grantees, through contracts with other agencies or resources, in alcohol and drug abuse screening techniques approved by the Department of Human Services, as a successor to the Department of Alcoholism and Substance Abuse, for the purpose of identifying children and adults who should be referred to an alcohol and drug abuse treatment program for professional evaluation.

(h) If the Department finds that there is no appropriate program or facility within or available to the Department for a ward and that no licensed private facility has an adequate and appropriate program or none agrees to accept the ward, the Department shall create an appropriate individualized, program-oriented plan for such ward. The plan may be developed within the Department or through purchase of services by the Department to the extent that it is within its statutory authority to do.

(i) Service programs shall be available throughout the State and shall include but not be limited to the following services:

- (1) case management;
- (2) homemakers;

- (3) counseling;
- (4) parent education;
- (5) day care; and
- (6) emergency assistance and advocacy.

In addition, the following services may be made available to assess and meet the needs of children and families:

- (1) comprehensive family-based services;
- (2) assessments;
- (3) respite care; and
- (4) in-home health services.

The Department shall provide transportation for any of the services it makes available to children or families or for which it refers children or families.

(j) The Department may provide categories of financial assistance and education assistance grants, and shall establish rules and regulations concerning the assistance and grants, to persons who adopt physically or mentally handicapped, older and other hard-to-place children who (i) immediately prior to their adoption were legal wards of the Department or (ii) were determined eligible for financial assistance with respect to a prior adoption and who become available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died. The Department may, subject to federal financial participation in the cost, continue to provide financial

assistance and education assistance grants for a child who was determined eligible for financial assistance under this subsection (j) in the interim period beginning when the child's adoptive parents died and ending with the finalization of the new adoption of the child by another adoptive parent or parents. The Department may also provide categories of financial assistance and education assistance grants, and shall establish rules and regulations for the assistance and grants, to persons appointed guardian of the person under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 for children who were wards of the Department for 12 months immediately prior to the appointment of the guardian.

The amount of assistance may vary, depending upon the needs of the child and the adoptive parents, as set forth in the annual assistance agreement. Special purpose grants are allowed where the child requires special service but such costs may not exceed the amounts which similar services would cost the Department if it were to provide or secure them as guardian of the child.

Any financial assistance provided under this subsection is inalienable by assignment, sale, execution, attachment, garnishment, or any other remedy for recovery or collection of a judgment or debt.

(j-5) The Department shall not deny or delay the placement of a child for adoption if an approved family is available

either outside of the Department region handling the case, or outside of the State of Illinois.

(k) The Department shall accept for care and training any child who has been adjudicated neglected or abused, or dependent committed to it pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987.

(l) Before July 1, 2000, the Department may provide, and beginning July 1, 2000, the Department shall offer family preservation services, as defined in Section 8.2 of the Abused and Neglected Child Reporting Act, to help families, including adoptive and extended families. Family preservation services shall be offered (i) to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare, (ii) to reunite children with their families, or (iii) to maintain an adoptive placement. Family preservation services shall only be offered when doing so will not endanger the children's health or safety. With respect to children who are in substitute care pursuant to the Juvenile Court Act of 1987, family preservation services shall not be offered if a goal other than those of subdivisions (A), (B), or (B-1) of subsection (2) of Section 2-28 of that Act has been set. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

The Department shall notify the child and his family of the

Department's responsibility to offer and provide family preservation services as identified in the service plan. The child and his family shall be eligible for services as soon as the report is determined to be "indicated". The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been filed, prior to concluding its investigation under Section 7.12 of the Abused and Neglected Child Reporting Act. However, the child's or family's willingness to accept services shall not be considered in the investigation. The Department may also provide services to any child or family who is the subject of any report of suspected child abuse or neglect or may refer such child or family to services available from other agencies in the community, even if the report is determined to be unfounded, if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary.

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal

offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except a minor less than 13 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987.

(1-1) The legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practically possible. To achieve this goal, the legislature directs the Department of Children and Family Services to conduct concurrent planning so that permanency may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status.

When determining reasonable efforts to be made with respect to a child, as described in this subsection, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

When a child is placed in foster care, the Department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove the child from the child's home. The Department must make reasonable efforts to

reunify the family when temporary placement of the child occurs unless otherwise required, pursuant to the Juvenile Court Act of 1987. At any time after the dispositional hearing where the Department believes that further reunification services would be ineffective, it may request a finding from the court that reasonable efforts are no longer appropriate. The Department is not required to provide further reunification services after such a finding.

A decision to place a child in substitute care shall be made with considerations of the child's health, safety, and best interests. At the time of placement, consideration should also be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

The Department shall adopt rules addressing concurrent planning for reunification and permanency. The Department shall consider the following factors when determining appropriateness of concurrent planning:

- (1) the likelihood of prompt reunification;
- (2) the past history of the family;
- (3) the barriers to reunification being addressed by the family;
- (4) the level of cooperation of the family;
- (5) the foster parents' willingness to work with the family to reunite;
- (6) the willingness and ability of the foster family to

provide an adoptive home or long-term placement;

(7) the age of the child;

(8) placement of siblings.

(m) The Department may assume temporary custody of any child if:

(1) it has received a written consent to such temporary custody signed by the parents of the child or by the parent having custody of the child if the parents are not living together or by the guardian or custodian of the child if the child is not in the custody of either parent, or

(2) the child is found in the State and neither a parent, guardian nor custodian of the child can be located.

If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department in that residence until such time as a parent, guardian or custodian enters the home and expresses a willingness and apparent ability to ensure the child's health and safety and resume permanent charge of the child, or until a relative enters the home and is willing and able to ensure the child's health and safety and assume charge of the child until a parent, guardian or custodian enters the home and expresses such willingness and ability to ensure the child's safety and resume permanent charge. After a caretaker has remained in the home for a period not to exceed 12 hours, the Department must

follow those procedures outlined in Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

The Department shall have the authority, responsibilities and duties that a legal custodian of the child would have pursuant to subsection (9) of Section 1-3 of the Juvenile Court Act of 1987. Whenever a child is taken into temporary custody pursuant to an investigation under the Abused and Neglected Child Reporting Act, or pursuant to a referral and acceptance under the Juvenile Court Act of 1987 of a minor in limited custody, the Department, during the period of temporary custody and before the child is brought before a judicial officer as required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987, shall have the authority, responsibilities and duties that a legal custodian of the child would have under subsection (9) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall ensure that any child taken into custody is scheduled for an appointment for a medical examination.

A parent, guardian or custodian of a child in the temporary custody of the Department who would have custody of the child if he were not in the temporary custody of the Department may deliver to the Department a signed request that the Department surrender the temporary custody of the child. The Department may retain temporary custody of the child for 10 days after the receipt of the request, during which period the Department may

cause to be filed a petition pursuant to the Juvenile Court Act of 1987. If a petition is so filed, the Department shall retain temporary custody of the child until the court orders otherwise. If a petition is not filed within the 10 day period, the child shall be surrendered to the custody of the requesting parent, guardian or custodian not later than the expiration of the 10 day period, at which time the authority and duties of the Department with respect to the temporary custody of the child shall terminate.

(m-1) The Department may place children under 18 years of age in a secure child care facility licensed by the Department that cares for children who are in need of secure living arrangements for their health, safety, and well-being after a determination is made by the facility director and the Director or the Director's designate prior to admission to the facility subject to Section 2-27.1 of the Juvenile Court Act of 1987. This subsection (m-1) does not apply to a child who is subject to placement in a correctional facility operated pursuant to Section 3-15-2 of the Unified Code of Corrections, unless the child is a ward who was placed under the care of the Department before being subject to placement in a correctional facility and a court of competent jurisdiction has ordered placement of the child in a secure care facility.

(n) The Department may place children under 18 years of age in licensed child care facilities when in the opinion of the Department, appropriate services aimed at family preservation

have been unsuccessful and cannot ensure the child's health and safety or are unavailable and such placement would be for their best interest. Payment for board, clothing, care, training and supervision of any child placed in a licensed child care facility may be made by the Department, by the parents or guardians of the estates of those children, or by both the Department and the parents or guardians, except that no payments shall be made by the Department for any child placed in a licensed child care facility for board, clothing, care, training and supervision of such a child that exceed the average per capita cost of maintaining and of caring for a child in institutions for dependent or neglected children operated by the Department. However, such restriction on payments does not apply in cases where children require specialized care and treatment for problems of severe emotional disturbance, physical disability, social adjustment, or any combination thereof and suitable facilities for the placement of such children are not available at payment rates within the limitations set forth in this Section. All reimbursements for services delivered shall be absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.

(o) The Department shall establish an administrative review and appeal process for children and families who request or receive child welfare services from the Department. Children who are wards of the Department and are placed by private child welfare agencies, and foster families with whom those children

are placed, shall be afforded the same procedural and appeal rights as children and families in the case of placement by the Department, including the right to an initial review of a private agency decision by that agency. The Department shall insure that any private child welfare agency, which accepts wards of the Department for placement, affords those rights to children and foster families. The Department shall accept for administrative review and an appeal hearing a complaint made by (i) a child or foster family concerning a decision following an initial review by a private child welfare agency or (ii) a prospective adoptive parent who alleges a violation of subsection (j-5) of this Section. An appeal of a decision concerning a change in the placement of a child shall be conducted in an expedited manner.

(p) There is hereby created the Department of Children and Family Services Emergency Assistance Fund from which the Department may provide special financial assistance to families which are in economic crisis when such assistance is not available through other public or private sources and the assistance is deemed necessary to prevent dissolution of the family unit or to reunite families which have been separated due to child abuse and neglect. The Department shall establish administrative rules specifying the criteria for determining eligibility for and the amount and nature of assistance to be provided. The Department may also enter into written agreements with private and public social service agencies to provide

emergency financial services to families referred by the Department. Special financial assistance payments shall be available to a family no more than once during each fiscal year and the total payments to a family may not exceed \$500 during a fiscal year.

(q) The Department may receive and use, in their entirety, for the benefit of children any gift, donation or bequest of money or other property which is received on behalf of such children, or any financial benefits to which such children are or may become entitled while under the jurisdiction or care of the Department.

The Department shall set up and administer no-cost, interest-bearing accounts in appropriate financial institutions for children for whom the Department is legally responsible and who have been determined eligible for Veterans' Benefits, Social Security benefits, assistance allotments from the armed forces, court ordered payments, parental voluntary payments, Supplemental Security Income, Railroad Retirement payments, Black Lung benefits, or other miscellaneous payments. Interest earned by each account shall be credited to the account, unless disbursed in accordance with this subsection.

In disbursing funds from children's accounts, the Department shall:

- (1) Establish standards in accordance with State and federal laws for disbursing money from children's

accounts. In all circumstances, the Department's "Guardianship Administrator" or his or her designee must approve disbursements from children's accounts. The Department shall be responsible for keeping complete records of all disbursements for each account for any purpose.

(2) Calculate on a monthly basis the amounts paid from State funds for the child's board and care, medical care not covered under Medicaid, and social services; and utilize funds from the child's account, as covered by regulation, to reimburse those costs. Monthly, disbursements from all children's accounts, up to 1/12 of \$13,000,000, shall be deposited by the Department into the General Revenue Fund and the balance over 1/12 of \$13,000,000 into the DCFS Children's Services Fund.

(3) Maintain any balance remaining after reimbursing for the child's costs of care, as specified in item (2). The balance shall accumulate in accordance with relevant State and federal laws and shall be disbursed to the child or his or her guardian, or to the issuing agency.

(r) The Department shall promulgate regulations encouraging all adoption agencies to voluntarily forward to the Department or its agent names and addresses of all persons who have applied for and have been approved for adoption of a hard-to-place or handicapped child and the names of such children who have not been placed for adoption. A list of such

names and addresses shall be maintained by the Department or its agent, and coded lists which maintain the confidentiality of the person seeking to adopt the child and of the child shall be made available, without charge, to every adoption agency in the State to assist the agencies in placing such children for adoption. The Department may delegate to an agent its duty to maintain and make available such lists. The Department shall ensure that such agent maintains the confidentiality of the person seeking to adopt the child and of the child.

(s) The Department of Children and Family Services may establish and implement a program to reimburse Department and private child welfare agency foster parents licensed by the Department of Children and Family Services for damages sustained by the foster parents as a result of the malicious or negligent acts of foster children, as well as providing third party coverage for such foster parents with regard to actions of foster children to other individuals. Such coverage will be secondary to the foster parent liability insurance policy, if applicable. The program shall be funded through appropriations from the General Revenue Fund, specifically designated for such purposes.

(t) The Department shall perform home studies and investigations and shall exercise supervision over visitation as ordered by a court pursuant to the Illinois Marriage and Dissolution of Marriage Act or the Adoption Act only if:

(1) an order entered by an Illinois court specifically

directs the Department to perform such services; and

(2) the court has ordered one or both of the parties to the proceeding to reimburse the Department for its reasonable costs for providing such services in accordance with Department rules, or has determined that neither party is financially able to pay.

The Department shall provide written notification to the court of the specific arrangements for supervised visitation and projected monthly costs within 60 days of the court order. The Department shall send to the court information related to the costs incurred except in cases where the court has determined the parties are financially unable to pay. The court may order additional periodic reports as appropriate.

(u) In addition to other information that must be provided, whenever the Department places a child with a prospective adoptive parent or parents or in a licensed foster home, group home, child care institution, or in a relative home, the Department shall provide to the prospective adoptive parent or parents or other caretaker:

(1) available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes excluding any information that identifies or reveals the location of any previous caretaker;

(2) a copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it as related to the child; and

(3) information containing details of the child's individualized educational plan when the child is receiving special education services.

The caretaker shall be informed of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetuation of sexual abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the children to be placed or currently in the home. The Department may prepare a written summary of the information required by this paragraph, which may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide known information verbally, if necessary, and must subsequently provide the information in writing as required by this subsection.

The information described in this subsection shall be provided in writing. In the case of emergency placements when time does not allow prior review, preparation, and collection of written information, the Department shall provide such information as it becomes available. Within 10 business days

after placement, the Department shall obtain from the prospective adoptive parent or parents or other caretaker a signed verification of receipt of the information provided. Within 10 business days after placement, the Department shall provide to the child's guardian ad litem a copy of the information provided to the prospective adoptive parent or parents or other caretaker. The information provided to the prospective adoptive parent or parents or other caretaker shall be reviewed and approved regarding accuracy at the supervisory level.

(u-5) Effective July 1, 1995, only foster care placements licensed as foster family homes pursuant to the Child Care Act of 1969 shall be eligible to receive foster care payments from the Department. Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first.

(v) The Department shall access criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355)

if the Department determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The Department shall provide for interactive computerized communication and processing equipment that permits direct on-line communication with the Department of State Police's central criminal history data repository. The Department shall comply with all certification requirements and provide certified operators who have been trained by personnel from the Department of State Police. In addition, one Office of the Inspector General investigator shall have training in the use of the criminal history information access system and have access to the terminal. The Department of Children and Family Services and its employees shall abide by rules and regulations established by the Department of State Police relating to the access and dissemination of this information.

(v-1) Prior to final approval for placement of a child, the Department shall conduct a criminal records background check of the prospective foster or adoptive parent, including fingerprint-based checks of national crime information databases. Final approval for placement shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or

battery, or if there is a felony conviction for physical assault, battery, or a drug-related offense committed within the past 5 years.

(v-2) Prior to final approval for placement of a child, the Department shall check its child abuse and neglect registry for information concerning prospective foster and adoptive parents, and any adult living in the home. If any prospective foster or adoptive parent or other adult living in the home has resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry.

(w) Within 120 days of August 20, 1995 (the effective date of Public Act 89-392), the Department shall prepare and submit to the Governor and the General Assembly, a written plan for the development of in-state licensed secure child care facilities that care for children who are in need of secure living arrangements for their health, safety, and well-being. For purposes of this subsection, secure care facility shall mean a facility that is designed and operated to ensure that all entrances and exits from the facility, a building or a distinct part of the building, are under the exclusive control of the staff of the facility, whether or not the child has the freedom of movement within the perimeter of the facility, building, or distinct part of the building. The plan shall include descriptions of the types of facilities that are needed in Illinois; the cost of developing these secure care

facilities; the estimated number of placements; the potential cost savings resulting from the movement of children currently out-of-state who are projected to be returned to Illinois; the necessary geographic distribution of these facilities in Illinois; and a proposed timetable for development of such facilities.

(Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06.)

Section 5. The Abused and Neglected Child Reporting Act is amended by changing Section 4 as follows:

(325 ILCS 5/4) (from Ch. 23, par. 2054)

Sec. 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), educational advocate assigned to a child pursuant to the School Code, truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse,

genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of "abused child" in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such

notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under

this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the "Criminal Code of 1961". Any person who violates this provision a second or subsequent time shall be guilty of a Class 3 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended. (Source: P.A. 93-137, eff. 7-10-03; 93-356, eff. 7-24-03; 93-431, eff. 8-5-03; 93-1041, eff. 9-29-04; 94-888, eff. 6-20-06.)

Section 10. The Juvenile Court Act of 1987 is amended by changing Section 2-28 as follows:

(705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

Sec. 2-28. Court review.

(1) The court may require any legal custodian or guardian of the person appointed under this Act to report periodically to the court or may cite him into court and require him or his agency, to make a full and accurate report of his or its doings in behalf of the minor. The custodian or guardian, within 10 days after such citation, shall make the report, either in writing verified by affidavit or orally under oath in open court, or otherwise as the court directs. Upon the hearing of the report the court may remove the custodian or guardian and appoint another in his stead or restore the minor to the custody of his parents or former guardian or custodian. However, custody of the minor shall not be restored to any parent, guardian or legal custodian in any case in which the minor is found to be neglected or abused under Section 2-3 or

dependent under Section 2-4 of this Act, unless the minor can be cared for at home without endangering the minor's health or safety and it is in the best interests of the minor, and if such neglect, abuse, or dependency is found by the court under paragraph (1) of Section 2-21 of this Act to have come about due to the acts or omissions or both of such parent, guardian or legal custodian, until such time as an investigation is made as provided in paragraph (5) and a hearing is held on the issue of the fitness of such parent, guardian or legal custodian to care for the minor and the court enters an order that such parent, guardian or legal custodian is fit to care for the minor.

(2) The first permanency hearing shall be conducted by the judge. Subsequent permanency hearings may be heard by a judge or by hearing officers appointed or approved by the court in the manner set forth in Section 2-28.1 of this Act. The initial hearing shall be held (a) within 12 months from the date temporary custody was taken, (b) if the parental rights of both parents have been terminated in accordance with the procedure described in subsection (5) of Section 2-21, within 30 days of the order for termination of parental rights and appointment of a guardian with power to consent to adoption, or (c) in accordance with subsection (2) of Section 2-13.1. Subsequent permanency hearings shall be held every 6 months or more frequently if necessary in the court's determination following the initial permanency hearing, in accordance with the

standards set forth in this Section, until the court determines that the plan and goal have been achieved. Once the plan and goal have been achieved, if the minor remains in substitute care, the case shall be reviewed at least every 6 months thereafter, subject to the provisions of this Section, unless the minor is placed in the guardianship of a suitable relative or other person and the court determines that further monitoring by the court does not further the health, safety or best interest of the child and that this is a stable permanent placement. The permanency hearings must occur within the time frames set forth in this subsection and may not be delayed in anticipation of a report from any source or due to the agency's failure to timely file its written report (this written report means the one required under the next paragraph and does not mean the service plan also referred to in that paragraph).

The public agency that is the custodian or guardian of the minor, or another agency responsible for the minor's care, shall ensure that all parties to the permanency hearings are provided a copy of the most recent service plan prepared within the prior 6 months at least 14 days in advance of the hearing. If not contained in the plan, the agency shall also include a report setting forth (i) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination and (ii) for any minor age 16 or over, a written description of the programs and services that will

enable the minor to prepare for independent living. The agency's written report must detail what progress or lack of progress the parent has made in correcting the conditions requiring the child to be in care; whether the child can be returned home without jeopardizing the child's health, safety, and welfare, and if not, what permanency goal is recommended to be in the best interests of the child, and why the other permanency goals are not appropriate. The caseworker must appear and testify at the permanency hearing. If a permanency hearing has not previously been scheduled by the court, the moving party shall move for the setting of a permanency hearing and the entry of an order within the time frames set forth in this subsection.

At the permanency hearing, the court shall determine the future status of the child. The court shall set one of the following permanency goals:

(A) The minor will be returned home by a specific date within 5 months.

(B) The minor will be in short-term care with a continued goal to return home within a period not to exceed one year, where the progress of the parent or parents is substantial giving particular consideration to the age and individual needs of the minor.

(B-1) The minor will be in short-term care with a continued goal to return home pending a status hearing. When the court finds that a parent has not made reasonable

efforts or reasonable progress to date, the court shall identify what actions the parent and the Department must take in order to justify a finding of reasonable efforts or reasonable progress and shall set a status hearing to be held not earlier than 9 months from the date of adjudication nor later than 11 months from the date of adjudication during which the parent's progress will again be reviewed.

(C) The minor will be in substitute care pending court determination on termination of parental rights.

(D) Adoption, provided that parental rights have been terminated or relinquished.

(E) The guardianship of the minor will be transferred to an individual or couple on a permanent basis provided that goals (A) through (D) have been ruled out.

(F) The minor over age 15 will be in substitute care pending independence.

(G) The minor will be in substitute care because he or she cannot be provided for in a home environment due to developmental disabilities or mental illness or because he or she is a danger to self or others, provided that goals (A) through (D) have been ruled out.

In selecting any permanency goal, the court shall indicate in writing the reasons the goal was selected and why the preceding goals were ruled out. Where the court has selected a permanency goal other than (A), (B), or (B-1), the Department

of Children and Family Services shall not provide further reunification services, but shall provide services consistent with the goal selected.

The court shall set a permanency goal that is in the best interest of the child. In determining that goal, the court shall consult with the minor in an age-appropriate manner regarding the proposed permanency or transition plan for the minor. The court's determination shall include the following factors:

(1) Age of the child.

(2) Options available for permanence, including both out-of-State and in-State placement options.

(3) Current placement of the child and the intent of the family regarding adoption.

(4) Emotional, physical, and mental status or condition of the child.

(5) Types of services previously offered and whether or not the services were successful and, if not successful, the reasons the services failed.

(6) Availability of services currently needed and whether the services exist.

(7) Status of siblings of the minor.

The court shall consider (i) the permanency goal contained in the service plan, (ii) the appropriateness of the services contained in the plan and whether those services have been provided, (iii) whether reasonable efforts have been made by

all the parties to the service plan to achieve the goal, and (iv) whether the plan and goal have been achieved. All evidence relevant to determining these questions, including oral and written reports, may be admitted and may be relied on to the extent of their probative value.

If the goal has been achieved, the court shall enter orders that are necessary to conform the minor's legal custody and status to those findings.

If, after receiving evidence, the court determines that the services contained in the plan are not reasonably calculated to facilitate achievement of the permanency goal, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence. The court also shall enter an order for the Department to develop and implement a new service plan or to implement changes to the current service plan consistent with the court's findings. The new service plan shall be filed with the court and served on all parties within 45 days of the date of the order. The court shall continue the matter until the new service plan is filed. Unless otherwise specifically authorized by law, the court is not empowered under this subsection (2) or under subsection (3) to order specific placements, specific services, or specific service providers to be included in the plan.

A guardian or custodian appointed by the court pursuant to this Act shall file updated case plans with the court every 6 months.

Rights of wards of the court under this Act are enforceable against any public agency by complaints for relief by mandamus filed in any proceedings brought under this Act.

(3) Following the permanency hearing, the court shall enter a written order that includes the determinations required under subsection (2) of this Section and sets forth the following:

(a) The future status of the minor, including the permanency goal, and any order necessary to conform the minor's legal custody and status to such determination; or

(b) If the permanency goal of the minor cannot be achieved immediately, the specific reasons for continuing the minor in the care of the Department of Children and Family Services or other agency for short term placement, and the following determinations:

(i) (Blank).

(ii) Whether the services required by the court and by any service plan prepared within the prior 6 months have been provided and (A) if so, whether the services were reasonably calculated to facilitate the achievement of the permanency goal or (B) if not provided, why the services were not provided.

(iii) Whether the minor's placement is necessary, and appropriate to the plan and goal, recognizing the right of minors to the least restrictive (most family-like) setting available and in close proximity to the parents' home consistent with the health,

safety, best interest and special needs of the minor and, if the minor is placed out-of-State, whether the out-of-State placement continues to be appropriate and consistent with the health, safety, and best interest of the minor.

(iv) (Blank).

(v) (Blank).

Any order entered pursuant to this subsection (3) shall be immediately appealable as a matter of right under Supreme Court Rule 304(b) (1).

(4) The minor or any person interested in the minor may apply to the court for a change in custody of the minor and the appointment of a new custodian or guardian of the person or for the restoration of the minor to the custody of his parents or former guardian or custodian.

When return home is not selected as the permanency goal:

(a) The Department, the minor, or the current foster parent or relative caregiver seeking private guardianship may file a motion for private guardianship of the minor. Appointment of a guardian under this Section requires approval of the court.

(b) The State's Attorney may file a motion to terminate parental rights of any parent who has failed to make reasonable efforts to correct the conditions which led to the removal of the child or reasonable progress toward the return of the child, as defined in subdivision (D) (m) of

Section 1 of the Adoption Act or for whom any other unfitness ground for terminating parental rights as defined in subdivision (D) of Section 1 of the Adoption Act exists.

Custody of the minor shall not be restored to any parent, guardian or legal custodian in any case in which the minor is found to be neglected or abused under Section 2-3 or dependent under Section 2-4 of this Act, unless the minor can be cared for at home without endangering his or her health or safety and it is in the best interest of the minor, and if such neglect, abuse, or dependency is found by the court under paragraph (1) of Section 2-21 of this Act to have come about due to the acts or omissions or both of such parent, guardian or legal custodian, until such time as an investigation is made as provided in paragraph (5) and a hearing is held on the issue of the health, safety and best interest of the minor and the fitness of such parent, guardian or legal custodian to care for the minor and the court enters an order that such parent, guardian or legal custodian is fit to care for the minor. In the event that the minor has attained 18 years of age and the guardian or custodian petitions the court for an order terminating his guardianship or custody, guardianship or custody shall terminate automatically 30 days after the receipt of the petition unless the court orders otherwise. No legal custodian or guardian of the person may be removed without his consent until given notice and an opportunity to be heard by

the court.

When the court orders a child restored to the custody of the parent or parents, the court shall order the parent or parents to cooperate with the Department of Children and Family Services and comply with the terms of an after-care plan, or risk the loss of custody of the child and possible termination of their parental rights. The court may also enter an order of protective supervision in accordance with Section 2-24.

(5) Whenever a parent, guardian, or legal custodian files a motion for restoration of custody of the minor, and the minor was adjudicated neglected, abused, or dependent as a result of physical abuse, the court shall cause to be made an investigation as to whether the movant has ever been charged with or convicted of any criminal offense which would indicate the likelihood of any further physical abuse to the minor. Evidence of such criminal convictions shall be taken into account in determining whether the minor can be cared for at home without endangering his or her health or safety and fitness of the parent, guardian, or legal custodian.

(a) Any agency of this State or any subdivision thereof shall co-operate with the agent of the court in providing any information sought in the investigation.

(b) The information derived from the investigation and any conclusions or recommendations derived from the information shall be provided to the parent, guardian, or legal custodian seeking restoration of custody prior to the

hearing on fitness and the movant shall have an opportunity at the hearing to refute the information or contest its significance.

(c) All information obtained from any investigation shall be confidential as provided in Section 5-150 of this Act.

(Source: P.A. 91-357, eff. 7-29-99; 92-320, eff. 1-1-02.)

Section 99. Effective date. This Act takes effect upon becoming law.